

to a person who has no intent either to use the classified information, to pass it on to others, or to publish it.

Mr. SHELBY. The Senator from Delaware is correct. The Committee expects that the Justice Department will use its prosecutorial discretion wisely. In some cases, administrative remedies are clearly more appropriate. In each case however—as under all criminal laws—prosecutors will need to judge whether criminal charges are warranted.

Mr. BIDEN. My second concern is that section 303 not be used as a justification for investigations of journalists. Our republic depends upon a free press to inform the American people of significant issues, including issues relating to foreign policy and the national security. If a leak statute were to become a back door for bringing the investigate apparatus of the federal government to bear on the press, we would be sacrificing our democratic institutions for the sake of protecting a few secrets. Much as we are dedicated to the protection of classified information, that would be a terribly bad bargain.

Mr. SHELBY. I agree with the Senator from Delaware 100 percent, and I can assure this body that in passing section 303, no member of the Select Committee on Intelligence intended that it be used as an excuse for investigating the press. That is why the scope of this provision is limited to persons who disclose, or attempt to disclose, classified information acquired as a result of authorized access to such information. Such persons have a duty to protect classified information has no right to disclose that particular information to persons not authorized to receive it, persons, even if he or she should later become a journalist. By the same token, however, the statute is not intended to lead to investigation or prosecution of journalists who previously had authorized access to classified information and later, in their capacity as journalist, receive leaked information.

#### SECTION 305

Mr. BIDEN. Section 305 of S. 2507, the Intelligence Authorization bill, provides, in brief, that no future “Federal law . . . that implements a treaty or other international agreement shall be construed as making unlawful an otherwise lawful and authorized intelligence activity of the United States Government . . . unless such Federal law specifically addresses such intelligence activity.” This provision is necessary, the Committee report explains, because “[t]here has been a concern that future legislation implementing international agreements could be interpreted, absent the enactment of section 305, as restricting in-

telligence activities that are otherwise entirely consistent with U.S. law and policy.” The concern arises from an opinion issued in 1994 by the Office of Legal Counsel (OLC) of the Department of Justice. In that opinion, the Office interpreted the Aircraft Sabotage Act of 1984—a law implementing an international treaty on civil aviation safety—as applying to government personnel. Although the OLC opinion emphasized that its conclusions should “not be exaggerated” and also warned that its opinion “should not be understood to mean that other domestic criminal statutes apply to U[nited S[tates] G[overnment] personnel acting officially,” the Central Intelligence Agency, out of an abundance of caution, wants to avoid cases in which legislation implementing a treaty might criminalize an authorized intelligence activity even though Congress did not so expressly provide. I understand the Agency’s concern that clarity for its agents is important. At the same time, however, we should take care to specify how section 305 is intended to work.

One question is this: how do we tell when a Federal law actually “implements a treaty or other international agreement?” My working assumption, in supporting section 305, is that we will be able to tell whether a future law “implements a treaty or other international agreement” by reading the law and the committee reports that accompany its passage. If the text of that future law or of the committee reports accompanying that bill states that the statute is intended to implement a treaty or other international agreement, then section 305 is pertinent to that statute. If there is no mention of such intent in that future law or in its accompanying reports, however, then we may safely infer that section 305 does not apply. Is that the understanding of the Select Committee on Intelligence, as well?

Mr. SHELBY. That is certainly our intent. If a future law is to qualify under section 305 of this bill, we would expect its status as implementing legislation to be stated in the law, or some other contemporaneous legislative history.

Mr. BIDEN. another question is how to tell that a U.S. intelligence activity “is authorized by an appropriate official of the United States Government, acting within the scope of the official duties of that official and in compliance with Federal law and any applicable Presidential directive.” I am concerned that this could be misinterpreted to mean that some intelligence bureaucrat could authorize some otherwise illegal activity with a wink and a nod. It is not the intent of the Select Committee on Intelligence that there be written authorization for a U.S. intelligence activity?

Mr. SHELBY. I understand the concerns of the Senator from Delaware. We expect that in almost all cases intelligence operations exempted from future treaty-implementing legislation will have been authorized in writing. I would note however, that many individual actions might be authorized through general written policies, rather than case-specific authorizations.

Neither would I rule oral authorization in exigent circumstances. The Committee believes that intelligence agencies would be well advised to make written records of such authorizations, so as to guard against lax management or later assertions that unrecorded authorization was given for a person’s otherwise unlawful actions. Such written records will also protect the government employees from allegations that their actions were not authorized.

Mr. BIDEN. My final question to the chairman of the Select Committee on Intelligence relates to how other countries may view section 305. I interpret section 305 as governing only the interpretation of a certain set of U.S. criminal laws enacted in the future and whether those laws apply to government officials. Is that also the understanding of the chairman of the Select Committee on Intelligence?

Mr. SHELBY. Yes, it is. Section 305 deals solely with the application of U.S. law to U.S. Intelligence activities. It does not address the question of the lawfulness of such activities under the laws of foreign countries, and it is in no respect meant to suggest that a person violating the laws of the United States may claim the purported authorization of a foreign government to carry out those activities as justification or as a defense in a prosecution for violation of U.S. laws.

Mr. BIDEN. I thank the distinguished chairman.

#### SUBMITTING CHANGES TO THE BUDGETARY AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 314 of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect amounts provided for emergency requirements.

I hereby submit revisions to the 2001 Senate Appropriations Committee allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current Allocation:		
General purpose discretionary .....	\$600,351,000,000	\$592,809,000,000
Highways .....		26,920,000,000
Mass transit .....		4,639,000,000
Mandatory .....	327,787,000,000	310,215,000,000
Total .....	928,138,000,000	934,583,000,000
Adjustments:		
General purpose discretionary .....	+1,956,000,000	+905,000,000
Highways .....		
Mass transit .....		
Mandatory .....		
Total .....	+1,956,000,000	+905,000,000
Revised Allocation:		
General purpose discretionary .....	602,307,000,000	593,714,000,000
Highways .....		26,920,000,000
Mass transit .....		4,639,000,000
Mandatory .....	327,787,000,000	310,215,000,000
Total .....	930,094,000,000	935,488,000,000

I hereby submit revisions to the 2001 budget aggregates, pursuant to section 311 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays	Surplus
Current Allocation: Budget Resolution .....	\$1,526,456,000,000	\$1,491,530,000,000	\$11,670,000,000
Adjustments: Emergencies .....	+1,956,000,000	+905,000,000	-905,000,000
Revised Allocation: Budget Resolution .....	1,528,412,000,000	1,492,435,000,000	10,765,000,000

#### THE ELECTION OF VINCENTE FOX

Mr. LEAHY. Mr. President, on July 2, 2000, the people of Mexico elected Vicente Fox, candidate of the National Action Party, to be their President. This election represents a dramatic change and a historic affirmation of democracy in Mexico. The inauguration of Mr. Fox later this year will end 71 years of PRI control of the Mexican Presidency.

I want to join other Members of congress in expressing my congratulations to Mr. Fox and the people of Mexico. I also want to commend President Zedillo, whose leadership helped to ensure the freest and fairest election in Mexico's history.

Mr. Fox's election has significance far beyond Mexico's borders. It represents an historic opportunity for our two countries to redefine, broaden and strengthen our relationship.

It is a relationship that has been burdened by history, and plagued by distrust, arrogance, and misunderstanding. There have been times when it seemed that on issues of hemispheric or international importance Mexico embraced whatever position was the opposite of the United States position, simply because we are the United States. At other times, our country has treated Mexico like a second-class cousin once or twice removed.

Problems that can only be solved through cooperation have too often been addressed with fences and sanctions, and self-serving assertions of sovereignty. It is time for a new approach. There is far too much at stake for us to continue down the road of missed opportunities.

Mexico is our neighbor, our friend, and our strategic partner. We share a 2,000-mile border. We have strong economic ties, with a two-way annual trade of \$174 billion. We have a common interest in combating transnational problems, and we have

strong cultural bonds, as more than 20 million people of Mexico descent now live in the United States.

At present, there are several issues between the two countries that deserve immediate attention:

After more than 6 years, the situation in Chipas remains unresolved. Many innocent lives have been lost and thousands of people are displaced and living in squalor. Tens of thousands of Mexican troops have surrounded the area, which could explode in renewed violence at any time. There is an urgent need to demilitarize the area and embark on an enlightened, sustained, good faith process to address the underlying social, economic, and political issues and resolve this conflict peacefully.

Since the implementation of NAFTA, trade between our countries has doubled. While NAFTA has been beneficial for both nations, reports of violations of labor and environmental laws must be more effectively addressed and outstanding trade disputes must be resolved.

The Mexican Government has made progress in combating illegal narcotics trafficking by undertaking a number of measures, including firing more than 1400 federal police officers for corruption, cooperating with the FBI last year on an investigation that occurred on Mexican soil, and increasing seizures of illegal narcotics. However, major problems remain and far more needs to be done to reduce narco-trafficking and official corruption in Mexico.

Illegal immigration continues to be a major concern for both countries. Although we must be sure that our immigration laws are effectively and fairly enforced, a long-term solution can only be achieved by improving the quality of life in Mexico where half the population—some 50 million people—struggles to survive on \$2 per day.

With thousands of United States and Mexican citizens traveling back and forth across the border every day, the spread of HIV/AIDS, TB and other infectious diseases is inevitable. These health problems, and shared environmental problems, can only be effectively addressed if we work together.

Human rights is another issue of importance to the Mexican people, and to Americans. These are universal rights, and it is very disturbing to read reports by the State Department and respected human rights organizations of widespread torture by Mexican police. It is also unacceptable that American citizens, including priests, some of whom have lived and worked in Mexico for decades, have been summarily deported for as little as being present at a demonstration against excessive force by the Mexican Army. Even when the Inter-American Human Rights Commission rejected the Mexican Government's arguments in these cases, the Mexican Government has refused to change its policy.

On August 24, 2000, President-elect Fox came to the United States, where he met with President Clinton and Vice President GORE. During those meetings, Mr. Fox expressed a strong commitment to democracy, economic development, and human rights, and to cooperate with the United States to combat corruption, illicit drug trafficking, and other transnational threats.

This bodes well for our future relationship. I hope that we would soon invite President-elect Fox to address a joint session of Congress. This should happen as soon as possible after the 107th convenes in January. Congress has had a major role in shaping United States policy toward Mexico, and we would all benefit from hearing directly from Mr. Fox. It would also give him an opportunity to outline in more detail his proposals to address key issues that affect our relations.